

**APPENDIX J**

**Appendix J: License for Inspection and Mapping**

Below is a license agreement allowing an entity to access property for the purpose of assessing and mapping both existing and potential trails.

**License for Inspection and Mapping**

This license agreement is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, and, for the specific purposes of indemnification, hold harmless, and insurance as set forth in paragraphs 3, 4, 5 and 6 herein, all entities either owning or having an incorporeal interest (such as a lease, sublease, or easement) in the "Land," hereafter defined and described, (all hereafter jointly or collectively referred to as "Licensor") and the \_\_\_\_\_, (hereafter referred to as "Licensee").

**WHEREAS** Licensor owns or controls an interest in approximately \_\_\_\_\_ acres of real property located in the county or counties of \_\_\_\_\_ in the State of Virginia, and;

**WHEREAS** Licensee seeks, during the term of the license, to enter upon Licensor's land for the purpose of evaluating and mapping trails for potential use as part of the Spearhead Trails System under a future license that may be negotiated with Licensor, and;

**WHEREAS** the Licensor, insofar as it has the right so to do, is willing to permit this evaluation and mapping on its land;

**NOW THEREFORE**, in consideration of the foregoing recitals, the covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of License**

Licensor, insofar as it has the right so to do, hereby grants to Licensee, its employees, agents, and contractors a license for ingress, egress, and access to map and evaluate existing and potential trail corridors for potential use as part of a recreational trail system on the land of Licensor.

2. **Indemnification and Hold Harmless as to Claims relating to Licensee's Acts or Omissions**

Licensee covenants and binds itself to indemnify and save harmless Licensor, its assigns, affiliates, and parent corporations, and its/their respective officers, partners, directors, agents, and employees from any and all damages, liability, and expense resulting from the claims, demands, actions, causes of action of any and all persons, firms, and

corporations or governmental bodies for personal injuries, death, damages to property, fines, or penalties caused by or arising out of the acts or omissions of Licensee, its officers, agents, employees, invitees, licensees, or contractors in exercising Licensee's rights hereunder, or in any manner using or enjoying the Land under the provisions hereof, and from and against any and all reasonable costs, counsel fees, expenses, and liabilities incurred in or about any such claim or action brought thereon.

3. **Indemnification and Hold Harmless as to Claims relating to Licensor's Acts or Omissions**

Licensee covenants and binds itself to likewise indemnify and save harmless Licensor, its assigns, affiliates, and parent corporations, and its/their respective officers, partners, directors, agents, and employees from any and all damages, liability, and expense resulting from the claims, demands, actions, causes of action of any and all persons, firms, and corporations for personal injuries, death, or damages to property caused by or arising out of the acts or omissions of Licensor, its officers, agents, employees, invitees, licensees, or contractors and from and against any and all reasonable costs, counsel fees, expenses, and liabilities incurred in or about any such claim or action brought thereon; Provided, however, that such obligation of indemnification and saving harmless contained in this paragraph 3 shall apply only to claims, demands, actions, or causes of action that arise out of or are directly related to the exercise by Licensee, its officers, agents, employees, invitees, licensees, or contractors of Licensee's rights hereunder or Licensee's enjoyment or use in any manner of the Land under the provisions hereof; Provided further that such obligation of indemnification and saving harmless shall not include acts or omissions committed by the Licensor, its officers, agents, employees, invitees, licensees, or contractors that constitute the deliberate, willful, or malicious infliction of injury to persons or property.

4. **Indemnification and Hold Harmless; Legal Action**

The parties further agree that if it becomes necessary for the Licensor, its officers, agents, or employees to file an action against Licensee to establish the right to indemnification, then the party prevailing in such litigation shall be reimbursed by the other party for all reasonable attorney fees, expenses, and costs incurred in such litigation.

5. **No warranty as to suitability of land for recreation or absence of hazards**

Licensee acknowledges Licensor's disclosure that mining operations may have heretofore been prosecuted in, on, and under portions of the Land, and that Licensor makes no warranty or representation, either implied or expressed, concerning the suitability of the Land for

recreational purposes or the presence or absence of hazardous conditions, known or unknown.

6. **Insurance**

Without limiting or affecting the foregoing provisions of paragraphs numbered 2 and 3, Licensee shall, at its sole expense, procure and maintain in full force and effect commercial general public liability insurance against any and all such claims, demands, actions, or causes of action described in paragraphs numbered 2 and 3, including coverage in the following categories as these terms are generally understood in the insurance business: (A) premises and operations liability; (B) contractual liability; (C) products and completed operations liability; and (D) auto liability including hired and non-owned. The specified insurance shall provide coverage in an amount not less than one million dollars (\$1,000,000). All insurance required under this paragraph shall (1) name Licensor as an additional insured party; (2) be primary (any insurance maintained by Licensor shall be considered excess and noncontributory); (3) specifically provide that Licensor may be a permissible claimant for any damage done to its/their properties; (4) contain a provision causing the insurer(s) to waive its/their rights of subrogation against indemnified parties other than the Licensor; and (5) contain a provision for notice to Licensor of any overdue or unpaid premium and not less than thirty (30) days' advance notice to Licensor of any proposed cancellation or change in coverage. Each policy of insurance shall be written as an "occurrence" contract. Certificates of insurance consistent with the requirements of this paragraph 6 shall be supplied to Licensor. If at any time any of this insurance coverage shall cease to be in force and effect, Licensee shall immediately notify Licensor and shall immediately suspend all activities described in numbered paragraph 1 on the Land until such insurance coverage has been reinstated.

7. **Compliance with Law**

Licensee, in their enjoyment or use in any manner of the Land under this License, shall duly observe, conform to, obey, and comply with all federal, state, county, municipal, and other governmental or quasi-governmental laws, ordinances, and regulations, and any covenants, conditions, orders, licenses, permits, approvals, and restrictions affecting the Land of which Licensor has given Licensee written notice.

8. **Term of License**

This license shall be effective immediately and shall remain effective through \_\_\_\_\_ unless it is earlier revoked or extended.

9. **Revocation of License**

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This license may be terminated at the will and discretion of the Licensor with 30 days written notice to the Licensee.

10. **Governing Law**

This license shall be governed by and construed in accordance with the laws of the state of West Virginia.

11. **Assignment Prohibited**

Neither this license nor any rights granted hereunder shall be assigned by Licensee without first obtaining the written consent of the Licensor, which consent may, in the sole discretion of the Licensor, be unreasonably withheld.

12. **Recordation Prohibited**

This license shall not be recorded.

**IN WITNESS WHEREOF**, the parties hereto have executed this License as of the date set forth above.

LICENSOR

By: \_\_\_\_\_

Its: \_\_\_\_\_

LICENSEE

By: \_\_\_\_\_

Its: \_\_\_\_\_